

ANALYSIS OF ORIGINAL BILL

Author: Polanco Analyst: Kimberly Pantoja Bill Number: SB 1651

Related Bills: None Telephone: 845-4786 Introduced Date: 02/13/98

Attorney: Doug Bramhall Sponsor:

SUBJECT: Gasoline-Powered Leaf Blower Trade-In Credit

SUMMARY

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would allow a credit in the amount of \$50 for the trade-in of any gasoline-powered leaf blower that does not meet certain specified standards. This bill would require the Franchise Tax Board (FTB) to establish certain minimum qualifications for the credit.

This bill also would make changes to the Business and Professions Code requiring the Department of Consumer Affairs to establish a testing, certification, and trade-in program for leaf blowers. These changes will be addressed only as they impact the department.

EFFECTIVE DATE

This bill would apply to taxable or income years beginning on or after January 1, 1999, and before January 1, 2005.

SPECIFIC FINDINGS

Existing federal and state laws provide various tax credits that are used to reduce the taxpayer's tax liability dollar-for-dollar. Tax credits, unlike deductions, are claimed after taxable income has been calculated and do not create differences between the taxable income amounts shown on the federal and state income tax returns.

Existing state law provides general rules that apply to the division of credits among two or more taxpayers, a husband and wife, and partners.

Except as specified, **state law** does not allow tax credits to reduce regular tax below the tentative minimum tax for purposes of the alternative minimum tax (AMT) calculation.

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___ X ___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO ___

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department Director Date
Gerald H. Goldberg 4/14/98

Agency Secretary Date

By: Date

Existing state and federal laws generally allow a depreciation deduction to the owner for the obsolescence or wear and tear of property used in a trade or business, or for investment property. The amount of this deduction is determined, in part, by the cost (or basis) of the property. In addition, the property must have a limited, useful life of more than one year. Depreciable property includes equipment, machinery, vehicles and buildings. Significant improvements to property that have a useful life in excess of one year are added to the basis of the property and are depreciated over its remaining useful life.

This bill would allow a credit in the amount of \$50 for the trade-in of any gasoline-powered leaf blower that does not meet certain specified standards. This bill would require the Franchise Tax Board (FTB) to establish certain minimum qualifications for the credit, including that the leaf blower must have been operated in California for one year and must be permanently removed from service.

This bill specifies that no trade or business expense deduction would be allowed for the same expenses for which the credit was allowed.

Since the bill does not specify otherwise, the general rules regarding division of the credit would apply, and this bill would not reduce regular tax below tentative minimum tax. This credit could not be carried over.

Policy Considerations

Tax credits are generally enacted to encourage some type of desired behavior on the part of the taxpayer. This credit is given for activity which some taxpayers are required by law to perform (all non-complying commercial leaf blowers must be retired after January 1, 2000).

Commercial users will have to comply in year 2000, but homeowners don't have that deadline. If this is to be an incentive for homeowners to replace an operating leaf-blower, not wait until a new one is needed, the author might consider a shorter sunset date for noncommercial users.

Implementation Considerations

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

Even if the Department of Consumer Affairs tests and certifies that the gasoline-powered leaf blower does not meet the specified standard, the FTB does not have any simple, low-cost method to verify whether the leaf blower has been operated in California for at least one year or that the leaf blower will be permanently removed from any further service. (In certain circumstances, the taxpayer's depreciation schedules on their tax return could be used for verification of prior ownership, but not use.) Thus, the FTB could not effectively or cost efficiently implement the allowance of the credit.

Other credits requiring certification are administered by the department responsible for the program (i.e. salmon and steelhead trout restoration

credit by the Department of Fish and Game). An annual listing is provided to the FTB of the qualified taxpayers who were issued the certification. This type of certification process by the Department of Consumer Affairs, in lieu of the requirements imposed upon the department by the bill (as discussed above), would assist in implementation of this credit.

TECHNICAL CONSIDERATIONS

The credit provides that it is in lieu of any trade or business expense deduction that may be allowed "for the same purpose." Since the credit involves the trading in of one leaf blower for another, it is unclear if the restriction is on the depreciation deduction attributable to blower. Furthermore, if the blower is being used in a trade or business, the taxpayer generally wouldn't be required to recognize gain on the trade-in as the "exchange" would be treated as a "like-kind exchange" under federal and state law, and the taxpayer would simply take a "substituted" basis in the new blower. Staff is available to work with the author to refine this provision.

FISCAL IMPACT

Departmental Costs

Once the implementation concerns are resolved, this bill would not significantly impact the department's costs.

Tax Revenue Estimate

Based on the assumptions discussed below, the revenue losses from this proposal are estimated to be as follows:

Estimated Revenue Impact of SB 1651 Taxable/Income Years After 1/1/1999 (In \$ Millions)			
Fiscal Years	1999-0	2000-1	2001-2
Commercial Use	(0.5)	(0.5)	-
Private Use	(2)	(2)	(2)
Total Revenue Impact	(2.5)	(2.5)	(2)

Any possible changes in employment, personal income, or gross state product that might result from this measure are not taken into account.

Tax Revenue Discussion

Revenue losses would depend on the number of qualified credit claims in any given year and the income tax liabilities of claimants.

According to the California Air Resources Board, the number of gas-powered leaf blowers used in California in 1990 was estimated at 350,000 of which 10% (35,000) were used by commercial users. This number is projected to be around 40,000 currently. Due to frequency of usage, the commercially-used blowers have an estimated life span of 3-5 years. Leaf blowers purchased in the year 2000 and thereafter would have to meet the new standards. Operators

with existing blowers worth more than \$50 could sell them to out-of-state users rather than claim the credit. If one-half of the existing 40,000 commercial blowers are traded-in for credits, the maximum revenue loss would be \$1 million, \$500,000 per year 1999-0 and 2000-1.

Based on the same information above, the number of gas-powered leaf blowers for non-commercial usage is projected to be 360,000 in 1998. If the life of these blowers is 10 years, it is anticipated that 10% or 36,000 would be turned in annually for \$2 million in total credits. This estimate assumes that turn-in facilities would be conveniently established for the taxpayer.

BOARD POSITION

Pending.